

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3068 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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GEB

Versus

IDRISHBHAI R VADNAGARA

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Appearance:

MS SHRADDHA TRIVEDI for Petitioners  
MR DK ACHARYA for Respondent No. 1

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE S.D.DAVE  
Date of decision: 09/09/96

ORAL JUDGEMENT

This First Appeal has been taken up for final hearing at the stage of admission under the consent and request of learned counsel for the parties.

2. The facts are not much in dispute.

The respondents who are original plaintiffs happen to be the husband and the minor kids of the women,

viz: Sahidaben, who has died because of electrocution. The case put forth by the plaintiffs is that they were not having an electrical connection in their own house but the neighbouring house was equipped with electrical connection. According to the case of the plaintiffs, the wire was found to have been cut off and the end of the wire was touching the upper portion of the house of the plaintiffs, and when the deceased Sahidaben was trying to dry the clothes on a wire, she was electrocuted. The medical evidence shows that she had burn injuries on the palm and she died of passing of high voltage electric power in her body.

The case of the plaintiffs came to be challenged by the defendants mainly on two grounds. It was firstly argued that even if the case of the plaintiffs regarding the way and the manner in which the entire episode has happened is accepted, then also it cannot be said that the opponent No.1 Board would be guilty of negligence, giving a right to the plaintiffs to sue them for damages. The second contention centering around the question of quantum of compensation would go to suggest that the deceased was not working and she had no income, and at any rate, the amount claimed was very much on the higher side.

Upon the abovesaid pleadings of the parties, the Court below has framed the issues and upon the appreciation of the evidence on record, the Court has passed a decree in favour of the plaintiffs in the sum of Rs.1,33,000/- together with interest and costs.

3. While making the abovesaid decree the court below has come to the conclusion that the deceased was a housewife and used to render valuable services not only in the house but on the agricultural lands and for the cattle also. The Court, therefore, has come to the conclusion that these services being rendered by the deceased outside and within the house could be valued at Rs.1000/- per month. The Court below has taken into consideration the fact that the deceased lady herself must be spending some amount for herself and that, therefore, after deducting amount of Rs.400/- as personal expenditure, dependency benefit should be assessed at Rs.600/- per month. The yearly figure of Rs.7200/- has been accepted and the multiplier of 15 has been taken. Thus, an amount of Rs.1,08,000/- has been awarded on the head of loss of services of the deceased. Awarding other conventional amounts, as indicated by us earlier, there has been an award in the sum of Rs.1,33,000/-.

4. Learned Counsel Ms. Trivedi for the appellants firstly argues that there is no evidence to warrant the conclusion that the appellants would be guilty of negligence. We are not in a position to accept this contention coming from the learned counsel because the evidence would go to show that the neighbouring house was equipped with electric connection and that the electric wire which is used to supply the energy to the neighbouring house was found to have been cut off and was hanging on the house of the deceased. It was sought to be suggested before the Court below, as it has been done before us also, that the Board cannot be said to be responsible or accountable for this. This contention cannot be accepted for the simple reason that it was the bounden duty of the Board to see that the wires are maintained in up-to-date condition so as the life of others who are absolutely innocent is not affected. The first contention, therefore, fails.

5. So far as the second contention centering around the quantum of compensation is concerned, we are inclined to accept the contention coming from the learned counsel for the appellants, in part only. Upon the appreciation of evidence on record, we believe that instead of the dependency loss being calculated at Rs.600/- per month, it should have been calculated at Rs.500/- per month. The yearly loss, therefore, would come to Rs.6000/-. But again the multiplier shall have to be raised to 18. When this is done, there will be a deduction in the sum of Rs.8000/- from the decreed amount.

The appeal stands partly allowed. The decree rendered by the Court below shall stand modified accordingly. No order as to costs.  
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